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IN THE

Supreme Court of the United States

October Term, 1947

No. 139

JOSEPH ESTIN,

Petitioner,

v.

GERTRUDE ESTIN,

Respondent.

**SUPPLEMENTAL BRIEF FOR RESPONDENT IN
OPPOSITION TO APPLICATION FOR A WRIT OF
CERTIORARI TO THE COURT OF APPEALS OF
THE STATE OF NEW YORK**

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Statement

Statements of fact on page 2 of the Brief for Respondent, in Opposition to the Application for a Writ of Certiorari, herein, and on page 6 of the Petitioners Reply Brief, herein are incorrect. This requires a brief additional statement.

On page 2 of the Respondent's Brief, in the last paragraph, the date "in May 1924", appears.—This should be,—in May 1945.

On August 4, 1947, counsel wrote to the clerk of the Supreme Court of the United States calling attention to the alleged errors of statement and asked if he may have permis-

sion to file a short brief in answer to the Petitioner's Reply Brief. On August 6, 1947, the Clerk of the Supreme Court of the United States wrote to Respondent's Counsel: "I suggest that you prepare a supplemental brief containing any corrections concerning the facts in the case of *Estin v. Estin*, No. 139. October Term 1947."

On page 6 of the Petitioner's Reply Brief, Petitioner's Counsel writes, in discussing and seeking to distinguish the cases of *Durlacher v. Durlacher*, 123 Fed. 2nd 70, certiorari denied, 315 U. S. 805; and *Bassett v. Bassett*, 141 Fed. 2nd 954, Certiorari denied, 323 U. S. 718; "both Mr. Durlacher and Mr. Bassett who had obtained divorces in Nevada, sat still until suits were begun in the United States District Court in Nevada upon the money judgments obtained in New York."

Respondent's counsel deems the above quoted statement of fact to be erroneous, because Mr. Durlacher and Mr. Bassett, both of them, opposed their wives' Orders to Show Cause for Money Judgments, respectively, pursuant to Section 1171b of the New York Civil Practice Act, from the very inception of the proceedings, as appears in the reports of the case in Special Term of the New York Supreme Court, *Durlacher v. Durlacher*, 173 Misc. 339 and as appears in the Record on Appeal to the United States Circuit Court of Appeals, Ninth Circuit, in the case of *Bassett v. Bassett*. The decision of the Special Term of the New York Supreme Court (Kings County) granting Mrs. Bassett's motion for a money judgment was published in the New York Law Journal, March 26, 1941, Vol. 105, No. 70, page 1349, column 6. Not elsewhere published. In its decision in the *Bassett* case, the Court made reference to the *Durlacher* case.

Thus it appears in the printed and published reports and records of the cases that Messrs. Durlacher and Bassett were in just the same position in which Mr. Estin finds himself, and the distinction which petitioner's counsel seeks to make does not exist. The *Durlacher* and *Bassett* cases are parallel with the instant *Estin* case.

IN CONCLUSION

The Writ of Certiorari prayed for should be denied.

Dated, New York, N. Y., August 14, 1947.

Respectfully submitted,

ROY GUTHMAN,
Counsel for Respondent.

JOSEPH N. SCHULTZ,
of Counsel.